

Assembly Bill 690 (Wesson)

Telephone Advocacy Disclosure

Version: May 29, 2001

Status: Senate Elections

Set for hearing: July 11, 2001

Existing Law

Under Government Code Section 84305, no candidate or committee shall send a mass mailing unless the name, street address, and city of the candidate or committee are shown on each piece of mail in a specified location. A "mass mailing" is defined as over 200 substantially similar pieces of mail, excluding a form letter or other mail that is sent in response to an unsolicited request, letter, or other inquiry.¹ Similar sender identification is also required to appear on slate mail.²

Under Elections Code Section 20008, any paid political advertisement that refers to an election, or to any candidate for state or local elective office, and that is contained in or distributed with a newspaper, shall bear the words "Paid Political Advertisement," as specified.

Existing law does not require any disclosure to be made in telephone calls made in support of, or in opposition to, a candidate or ballot measure.

Proposed Change to Law

This bill would provide that a candidate, committee or other organization may not expend campaign funds to pay for 1,000 or more similar telephone calls to support or oppose a candidate or ballot measure unless the name of the organization that authorized or paid for the call is disclosed during the course of each call. Phone calls made by a candidate, campaign manager or volunteer are excluded. The bill is an urgency statute to take effect upon the Governor's signature. This bill differs from SB 3 (Brulte) in that the Senate bill applies to a single call.

Discussion

Telephone Disclosure Provision

The bill was amended in April to strike its previous contents and insert the telephone disclosure provision summarized above following allegations of misleading political phone calls in the Los Angeles mayoral primary election.

¹ Government Code Section 82041.5. All further references are to the Government Code unless otherwise noted.

² Section 82048.3.

Enforcement Concerns The Enforcement Division has concerns about the enforceability of AB 690. In most sender identification complaints, enforcement is aided somewhat by hardcopy of the mail pieces in question, which provide some proof that a violation has occurred. In the context of telephone advocacy, proof would be more difficult. A phone bank that does not leave answering machine or voicemail messages may be difficult to pursue. Furthermore, by blocking its telephone number from displaying on caller identification equipment, a phone bank may fail to make the disclosure required by the bill and still remain anonymous. Equally as troubling is the likelihood that the recipient of a political telephone call will terminate the call prior the mandated disclosure, then call the FPPC or other authorities to complain of a violation.

A Case of Bad Facts Making Bad Law? While anonymous phone banking that attacks a candidate with false claims is clearly not unheard of in politics, the relatively infrequent use of such a campaign tactic, when taken together with the enforcement concerns expressed above, argues against a new disclosure requirement.

Recommendation

In light of the concerns mentioned above, **staff requests the Commission's permission to work with the author's office to attempt to resolve these issues.**